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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,217	11/08/2000	Kaneaki Fujishita	6640/60186	8816

7590

04/25/2002

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EXAMINER

GRIER, LAURA A

ART UNIT PAPER NUMBER

2644

DATE MAILED: 04/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

1-3/01

# Office Action Summary

Application No.

09/600,217

Applicant(s)

FUJISHITA, KANEAKI

Examiner

Laura A Grier

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 3, 8 and 9 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 10-13 is/are allowed.
- 6) ☒ Claim(s) 1 and 4-6 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

DETAILED ACTION

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. **Claims 1, 4 and 6** are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al., U. S. Patent No. 5787399.

Regarding **claims 1**, Lee et al. (hereafter, Lee) discloses a recording and reproducing method which includes signal processing (46) for compressing digital audio data which includes non-sound section data, which constitutes zero data, wherein when non-sound data is detected by a controller (56), the non-sound data is coded and represented by block-unit codes, further, wherein the detection is based upon a predetermined period of time (col. 4, lines 55-67 and col. 5, lines 1-8) which reads on the claimed limitations of supplied data, detecting means of zero data, wherein the supplied data is compressed of a decoding process, therein.

Regarding **claim 4**, Lee discloses everything claimed as applied above (see claim 1). Lee further discloses memory for storing data (col. 3, line 65-67).

Regarding **claim 6**, Lee discloses everything claimed as applied above (see claim 1). Further, Lee inherently discloses the claimed limitations of repeating the detection of non-sound data (zero data - time (col. 4, lines 55-67 and col. 5, lines 1-8)).

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Schnizlein.

Regarding **claim 5**, Howitt discloses everything claimed as applied above (see claim 1).

However, Howitt fails to specifically disclose a muting means. The examiner maintains that such muting means was well known in the art.

Regarding the muting means, in a similar field of endeavor, Schnizlein discloses a system and method for implementing a mute voice signal upon reception of a ADPCM zero nibble in wireless communications. Schnizlein disclosure comprises a processor for releasing a mute signal upon zero detection for predetermined period of time (col. 1, lines 32-42 and col. 2, lines 3-37).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Lee by incorporating a muting means for the purpose of generating a mute signal upon zero detection of decoded compressed data, thus suppressing noise and other interferences to improve audio quality.

*Allowable Subject Matter*

6. **Claim 2** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. **Claims 7, and 10-13** are allowed.

*Citation of Pertinent Prior Art*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maeda, U. S. Patent No., 5343456 discloses digital audio signal reproducing apparatus.

*Response to Arguments*

9. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

The applicant essentially argues that prior art previously used, Howitt, fails to disclose the claim limitations as amended. The examiner accepts the applicant's response. However, the examiner has provided new prior art that discloses the claimed invention as indicated in the Office Action above.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (703) 306-4819. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

Art Unit: 2644

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**Or faxed to:**


**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

LAG

April 22, 2002

  
FORESTER W. ISEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600